

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

PATRICK GLENN HUTCHISON,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Chapter 7 Case No. 16-10240
	)	
AMERICA'S WHOLESALE LENDER; BANK OF	)	
NEW YORK MELLOW, AS TRUSTEE FOR THE	)	Adversary Case No. 16-01023
CERTIFICATEHOLDERS, CWABS, INC.,	)	
ASSET-BACKED CERTIFICATES, SERIES 2006-	)	
17; COUNTYWIDE HOME LOANS, INC.; BANK	)	
OF AMERICA, N.A.; SPECIALIZED LOAN	)	
SERVICING; and BAER, TIMBERLAKE,	)	
COULSON & CATES,	)	
	)	
Defendants.	)	

**BAER & TIMBERLAKE, P.C.'S AMENDED MOTION TO QUASH SERVICE OF  
SUMMONS AND BRIEF IN SUPPORT THEREOF AND NOTICE OF OPPORTUNITY  
FOR HEARING**

Defendant, Baer & Timberlake, P.C., named herein as Baer, Timberlake, Coulson & Cates (herein: **"Movant"**), respectfully moves the Court to quash service of summons on the grounds of insufficiency of service of process under Federal Rule of Bankruptcy Procedure 7004(b)(3) and Local Rule 7004-1. In support hereof, Movant states as follows:

1. Plaintiff, Patrick Glenn Hutchison (**"Plaintiff"**) initiated this adversary proceeding on February 24, 2016.
2. On February 24, 2016, the Clerk of the Bankruptcy Court issued six (6) summonses (Docs 3 – 8).
3. On April 22, 2016, Plaintiff filed a Certificate of Service (Doc. 14) in connection with purported service on Movant. The Certificate of Service states, under penalty of perjury, that service was completed on Movant by mailing to:

Baer, Timberlake, Coulson & Cates  
P.O. Box 18486  
Oklahoma City, OK 73154-0486

4. Federal Rule of Bankruptcy Procedure 7004 governs service of the summons and complaint in adversary proceedings. Section 7004 provides for methods of service by first class mail in addition to the methods of personal service under Federal Rule of Civil Procedure 4. When affecting service on a domestic entity, Federal Rule of Bankruptcy Procedure 7004(b)(3) requires that “. . . a copy of the summons and complaint [be mailed] to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process . . .”

5. As evidenced by Plaintiff’s Certificate of Service (Doc. 14), Plaintiff failed to serve the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Accordingly, Plaintiff’s purported service was insufficient and should be quashed pursuant to Federal Rule of Bankruptcy Procedure 7004(b)(3) and Local Rule 7004-1.

WHEREFORE, Movant respectfully requests that this Court enter an order quashing service of summons as to Movant on the grounds of insufficiency of service of process under Federal Rule of Bankruptcy Procedure 7004(b)(3) and Local Rule 7004-1.

#### **NOTICE OF OPPORTUNITY FOR HEARING**

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also mail a file-stamped copy of your response or objection to the undersigned Movant attorney (and others who are required to be served) and file a certificate of service with the Court. If no response or

objection is timely filed, the Court may grant the requested relief without a hearing or further notice. The 14 day period includes the 3 days allowed for mailing provided for the Rule 9006(f) Fed.R.Bankr. Proc.

Respectfully submitted,

By: s/ Jim Timberlake  
JIM TIMBERLAKE - #14945  
Baer Timberlake, P.C.  
4200 Perimeter Center, Suite 100  
Oklahoma City, OK 73102  
Telephone: (405) 842-7722  
Fax: (918) 491-5424  
Attorney for Movant

**CERTIFICATE OF SERVICE**

This is to certify that I did, on the 5th day of May, 2016, mail a true and correct copy of the above and foregoing document *via* U.S. Mail, return receipt requested, with sufficient postage affixed thereon, addressed to the following, who are not registered participants of the ECF System:

Patrick Glenn Hutchison  
1508 S.W. 43rd Street  
Oklahoma City, OK 73119  
Telephone: (405) 207-3982  
Pro Se Plaintiff

By: s/ Jim Timberlake  
JIM TIMBERLAKE - #14945